

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA NORTHERN DIVISION

MARK SHANNON WHEELER, #139044)
Plaintiff,)

V.)

BILL SEGREST, et al.
Defendant.)

CIVIL ACTION #2:06-CV-274-MHT

MOTION TO INCLUDE SUMMARY JUDGEMENT

In Accordance to Rule 56, Fed. Rules Civil Procedure.

Comes now the Plaintiff, Mark Shannon Wheeler, Ais# 139044, and moves this above styled Court to GRANT this motion to include Summary Judgment, and Prays this Court will GRANT relief Demanded, as Plaintiff Wheeler and many hundreds, perhaps thousands of Alabama Prisoners both male, and female's, Constitutional, 1st, 8th, 9th, 14th, Amendments of the Constitution of the United States of America, and Article 1, (one) section 9, (Nine) Clause of the same have been violated (U.S. Const.).

Being Plaintiff Mark Shannon Wheeler has invoked this Courts jurisdiction By proving to this Above styled Court that the forsaide Constitutional violations exist violating Plaintiff Wheeler and many other prisoner's in Alabama, relief is Sought, and due, and demanded as follows: Injunctive mandate Relief Sought: In Accordance with demands of Rule 56, Fed. Rules Civil Procedure (In no special ORDER, as Grounds "were" listed in order in Compliance with this Courts order (doc. #60) and Relief AS A WHOLE is due AS follows: Plaintiff Wheeler will list in Compliance to ORDER:

- 1). Plaintiff is due 22 months relief toward next parole review date and Plaintiff states this is reimbursement for being made late by 8th, 14th Amend U.S. Const. violations that defendant Segrest, et al, "CAUSED".
- 2). Being Plaintiff Wheeler has not raised a res judicata, nor is Plaintiff Wheeler time barred, he demands also that defendant Segrest et al be ordered to reimburse Plaintiff Wheeler the said 22 months late time, and order that defendant be held to accountability for violating Plaintiff Wheeler's ex post facto (Article 1, sec. 9 U.S. Const.) for MAKING Plaintiff Wheeler's next Parole review 5 years AWAY from July 13th 2005, when the longest by Statutes in 1994 was a 3 year Set-

off when Plaintiff Wheeler was Sentenced. Plaintiff Wheeler's New Parole review date should legally be September, 2006, as it has now been three (3) years since Wheeler's Parole review was due. All Prisoners in Alabama Sentenced between 1982 - March 20th, 2001 that were set off more than 3 years should be immediately rescheduled properly, by law. If said Prisoners in Alabama were made late over a 3 year duration that were Sentenced in Alabama State Courts between the forsaide dates, each late month over 3 years should be deducted toward next review. Being that there are nearly 28,000 prisoners in Alabama, it should be ORDERED that each Prisoner "Due Relief" as set out (by this Honorable Court) should write to Executive Director of the Al. Bd. of Pardons and Paroles showing dates of sentence and reasons they are "due" a rescheduling, as having been made late by the Board, or, because they were sentenced between above dates, in the State Courts of Alabama, and set off for parole review for more than 5 years, or made late over 3 years. This has been cruel and unusual Punishment (8th, 14th Amends).

- 3) Plaintiff Wheeler is due Equal Protection, and so is every other man and woman in the Alabama Dept. of Corrections, that are United States Citizens, and demand relief to ORDER such, Equal Consideration is a law - "to warrant re-imbursement for late parole review time" - (NOT A ROCKET-DOCKET). But Plaintiff Wheeler cannot violate res judicata to demand Rocket docket, even though it should ensue. Plaintiff Wheeler has suffered 8th, 14th Amend U.S. Const., Article I, sec 9 U.S. Const ex post facto, and All are due relief, or further proper reviews will be violated prisoners in Alabama, And Defendant Segrest et al will continue the Prison overcrowding, advocacy, (violating 1st, 8th, 9th, 14th Amends).
- 4) Plaintiff Wheeler seeks injunctive relief for all Prisoners affected hereby. Defendant Segrest, et al, should be ORDERED to IMMEDIATELY OBEY APPROPRIATE SENTENCING GUIDELINES AND STATUTES or face Criminal Charges, and Fines, and Sanctions.
- 5) Plaintiff Wheeler incorporated Page #258 (this Courts Document #37), which is a legal document which proves there is No Evidence to prove any sexual mutilation ever occurred. Plaintiff Wheeler retracted his statement to police; actually gave (2) two conflicting statements. A police report of Wheeler's statement is not sufficient grounds to include "Contrary to evidence" supposed report in Pre Sentence investigation as factual, and surely not in Parole consideration, when a "STATE'S" Pathologist under OATH stated that a sexual mutilation "WAS NOT EVIDENCE," and "HE DIDN'T SEE IT," he examined the remains.

It was 8th Amend. U.S. Const. Cruel and unusual for defendant Segrest et al to even read any such unreliable P.S.I. in last Parole Consideration, and will warrant a civil suit if such happens Again (if Plaintiff's denied Parole).

- 6.) Plaintiff Wheeler demands that this Court be shown reason for Prisoners denial of Parole if they were sentenced between 1982 - March 20th, 2001, to show that No ex post facto exist, as the reason for denial must not be for having not served A sufficient amount of time, because Prisoners must have served enough time To be "eligible", this must be ORDERED to Avoid 8th, 14th Amend. U.S. Const. Further violations As it has been in the past (A violation) and is still practiced on review-forms. This should be ordered as relief, to Avoid Prisoner being ordered to more time.
- 7.) NO Groups, or individuals statements before the Board of Pardons and Paroles (Via Defendant Segrest et al) should be of Consideration to deny Parole, UNLESS, the statement is directly by the Victims. A certified return receipt Notification warrants Constitutional satisfaction. A direct response needed stops Equal Protection 14th Amend. U.S. Const and violates Prisoners right to such by Causing Prisoner "late parole reviews" which are Protected by statutes in place "before" the needed victims reply was ever a Supposed Consideration. Board should only Consider Victims and this should be ORDERED by this Court as relief.

* Plaintiff Wheeler, now 1-5 "reiterates" relief sought by (Page 7 and page 8, 1-5), Plaintiff's response to defendants Special Report (Filed 9-11-2006 in this Court) submitted by Plaintiff Wheeler Certificate of Service September 18th, 2006 in which "this" Motion is to be Included in a "Motion to INCLUDE Summary-Judgment" in Compliance to Rule 56 Fed. R. Civ. Proc, responses enumerated 1-5 are Now "reiterated" For Summary Judgment Rule 56 Fed. R. Civ. Proc, in this Honorable Court. Plaintiff Wheeler is out of Paper, and had to borrow this lined Paper. Plaintiff Wheeler otherwise would write out 1-5 again as is on for said pages in Compliance NOW with Rule 56 Fed. R. Civ. Proc. Plaintiff seeks All due Relief Sought for throughout this Actions litigation, and is due an evidentiary hearing hopefully to dispose of defendants further arguments. Plaintiff Wheeler on all merits, in Compliance to All Fed. R. Civ. Proc are invoked to Protect Plaintiff Wheeler's Constitutional Civil Rights, AS A U.S. Citizen. Done this the 26th day of Sept. 2006.

Respectfully Submitted Mark Shannon Wheeler 139044
Mark Shannon Wheeler Pro Se Plaintiff.

CERTIFICATE OF SERVICE

I MARK SHANNON WHEELER hereby Certify that I have mailed A COPY OF the SAME and served UPON Defendant's Counsel by 1st CLASS Prepaid Postage U.S. MAIL, in legal Mail Box A + Kilby Prison and addressed to: Ala. Bd. Pardons and Paroles

TO: Steven M. Simon Asst Atty General
P.O. BOX 302405 Montgomery, AL. 36130

This the 26th day of September, 2006. Mark Shannon Wheeler 139044

Mark S. Wheeler 139044-K-125
Kilby, P.O. Box 150
Mt. Meigs, AL. 36057

Mark Shannon Wheeler
Plaintiff Pro Se

* **NOTICE:** This Court Need MAKE Notice to Plaintiff Wheeler's AIS # 139044

NOT → 139004.
AS LAST ORDER WAS NOT
[PAGE 6] For Plaintiff Wheeler-139044